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**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

Paper No. 13
JQ

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re **Cross Country Paper Products, Inc.**

Serial No. 75/508,058

Request for Reconsideration

Myron Amer for **applicant.**

Tarah K. Hardy, Trademark Examining Attorney, Law Office
110 (Chris A.F. Pedersen, Managing Attorney).

Before Quinn, Bucher and Bottorff, Administrative Trademark
Judges.

Opinion by Quinn, Administrative Trademark Judge:

The Board, on December 12, 2000, affirmed the refusal
to register under Section 2(d). Applicant, on December 28,
2000, filed a request for reconsideration.

The request is not persuasive. Insofar as
registrant's identification of goods is concerned, it is
well settled that the issue of likelihood of confusion must
be determined on the basis of the goods as they are set

forth in the involved application and cited registration. Thus, where the goods in the cited registration are broadly described as to their nature and type, it is presumed that the registration encompasses not only all goods of the nature and type described therein, but that the identified goods move in all channels of trade which would be normal for such goods and that they would be purchased by all potential buyers thereof. See, e.g., *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981). In this connection, there was no error in finding that registrant's surgical instruments, as broadly identified, encompass such goods to be used in the dental field by oral surgeons.

With respect to the sophistication of purchasers, we stand by our assessment that this would not ensure against confusion given the closeness between the marks involved here.

In finding confusion between applicant's mark EXCEL and the registrant's marks EXCEL and EXCEL DR, we acknowledged that these marks are laudatorily suggestive. We again would make the point, however, that the marks convey the same meaning, namely, that the goods sold thereunder are superior in quality.

Finally, applicant's criticism of the Board's reliance on the third-party registrations submitted by the Examining

Attorney is not entirely understood. This evidence does not bear on the factor of the similarity between the marks, but rather on the similarity between the goods. And, as we indicated in our decision, the registrations have probative value to the extent that they serve to suggest that the goods listed therein, including medical gloves and surgical instruments, are of a kind which may emanate from a single source.

The request for reconsideration is denied, and the decision dated December 12, 2000 stands.